APPEAL NO. 010096

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), based on the sufficiency of the evidence. A contested case hearing was held on December 14, 2000. The hearing officer decided:

1. The respondent (claimant) did sustain a compensable injury in the form of an occupational disease.

2. The date of the injury was _____, the date on which the claimant knew or should have known that the disease may be related to his employment. Section 408.007.

3. The claimant's notice to the employer was made not later than July 7, 2000, and was timely within the meaning of Section 409.001. The appellant (carrier) was not relieved of liability because timely notice was given by the claimant. Section 409.002.

4. The claimant is not barred from receiving Texas workers' compensation benefits because of an election to receive benefits under group health insurance.

5. Due to the _____, injury, the claimant does have disability, which rendered him unable to obtain or retain employment at preinjury wages from July 12, 2000 through October 11, 2000.

DECISION

The hearing officer's decision is affirmed.

The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). While a claimant's testimony alone may be sufficient to prove an injury, the testimony of a claimant is not conclusive but only raises a factual issue for the trier of fact. Texas Workers' Compensation Commission Appeal No. 91065, decided December 16, 1991. The trier of fact may believe all, part, or none of any witness's testimony. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 93426, decided July 5, 1993.

There is ample evidence in the record to show that the claimant was engaged in repetitive activity of the type which can in time lead to carpal tunnel syndrome (CTS) and the medical evidence fully supports the diagnosis of CTS. In a case such as the one before us where both parties presented evidence on the disputed issues, the hearing officer must look at all of the relevant evidence to make factual determinations and the Appeals Panel must consider all of the relevant evidence to determine whether the factual

determinations of the hearing officer are so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. Texas Workers' Compensation Commission Appeal No. 941291, decided November 8, 1994. An appeals-level body is not a fact finder, and it does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact even if the evidence could support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). Only were we to conclude, which we do not in this case, that the hearing officer's determinations were so against the great weight and preponderance of the evidence as to be manifestly unjust would there be a sound basis to disturb those determinations. In re King's Estate, 150 Tex. 662, 224 S.W.2d 660 (1951); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

Since we find the evidence sufficient to support the determinations of the hearing officer, we will not substitute our judgment for his. Texas Workers' Compensation Commission Appeal No. 94044, decided February 17, 1994. We affirm the decision and order of the hearing officer.

_____
Michael B. McShane
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Robert W. Potts
Appeals Judge